

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Wiggins Analyst: Kimberly Pantoja Bill Number: AB 1353
Related Bills: See Legislative History Telephone: 845-4786 Introduced Date: 02/23/01
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Political Contributions Refundable Credit

SUMMARY

This bill would create a refundable income tax credit for political contributions made by individuals.

PURPOSE OF THE BILL

According to the author's staff, the purpose of this bill is to encourage individuals to contribute to political campaigns, thereby de-emphasizing the importance of large donors in political campaigns.

EFFECTIVE/OPERATIVE DATE

This bill is a tax levy and would be effective immediately upon enactment. The credit would be operative for taxable years beginning on or after January 1, 2001, and does not have a sunset date.

POSITION

Pending.

Summary of Suggested Amendments

An amendment is suggested to provide appropriation language to fund the departmental costs associated with administering the proposed credit.

ANALYSIS

FEDERAL/STATE LAW

California follows Internal Revenue Service (IRS) Revenue Rulings 74-22 and 74-23. Under Revenue Ruling 74-23, a political candidate does not pay tax on campaign contributions. However, interest and cash dividends earned on contributions and gains on sales of contributed securities are includable in the gross income of the political candidate. Under Revenue Ruling 74-22, amounts diverted from political campaign contributions to the personal use of the candidate are taxable and must be reported by the candidate in the year diverted.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

Alan Hunter for GHG

05/02/01

Taxpayers may designate funds to the Presidential Election Campaign Fund on their federal tax forms. This fund helps pay for presidential election campaigns. The fund is intended to reduce candidates' dependence on large contributions from individuals and groups and place candidates on an equal financial footing in the general election. Designations to this fund do not change the taxpayer's tax liability or refund amount.

Both state and federal laws provide various tax credits designed to provide tax relief for taxpayers that must incur certain expenses (e.g., renter's credit) or to influence behavior, including business practices and decisions (e.g., research credits).

Neither state nor federal laws currently have a credit comparable to the credit proposed by this bill.

THIS BILL

Under the Personal Income Tax Law (PITL), this bill would allow a refundable credit equal to 100% of the amount of any political contributions made by an individual to a controlled committee of a candidate, political party committee, or small contributor committee.

The bill specifies the credit shall not exceed \$200 for married couples filing joint returns, heads of household, and surviving spouses, or \$100 for all other individuals.

This bill specifies that any credit in excess of the taxpayer's tax liability would first be credited against other amounts due, and the balance, upon appropriation by the Legislature, would be refunded to the taxpayer.

IMPLEMENTATION CONSIDERATIONS

The bill uses terms that are undefined, i.e., "controlled committee of a candidate," "political party committee," and "small contributor committee." Definitions for those terms are available in the Government Code if the author wants to reference those definitions in the bill. "Controlled committee" can be found in Government Code Section 82016, "small contributor committee" in Section 85203 of Chapter 5, Article 2.5, and "political party committee" in Section 85205 of Chapter 5, Article 2.5. Without a direct reference in the bill to the Government Code, the department would not be able to use those definitions. The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of the credit.

This bill would require regular appropriations by the Legislature to pay for the refundable portion of this credit. If sufficient funds were not appropriated to cover all of the refunds due, the department would suspend payment of the refunds until additional funds were appropriated. This delay would result in additional contacts to the department by refund recipients, which would likely increase departmental costs.

Since the proposed credit is refundable, the credit would need to be shown in the payment section on all personal income tax (PIT) returns except the Form 540 2EZ. This would increase PIT return Forms 540, 540NR, 540X, and potentially the Form 540A by one page. Adding a page to these forms would result in a significant impact on FTB's operations and costs, would slow return processing, and would increase the amount of return storage space. The department may be required to lease additional office and file storage space; however the department would work within available space to the extent possible.

PROGRAM BACKGROUND

Prior to 1992, California allowed a nonrefundable credit for political contributions. The credit was operative for taxable years beginning on or after 1987, and before January 1, 1992. The credit amount was equal to 25% of the political contribution made, not to exceed \$50 (\$25 for married filing separate and single taxpayers).

A political contributions credit carryover is still allowed for contributions made prior to January 1, 1992. According to the department's annual report for 1999, 1,473 taxpayers are still claiming this credit carryover for a total of \$186,000.

LEGISLATIVE HISTORY

AB 53 (Klehs, Stats. 1987, Ch. 1138) enacted the prior political contribution credit. This credit was repealed by its own terms on January 1, 1992.

OTHER STATES' INFORMATION

The laws of the following states were reviewed because of similarities to California's income tax laws.

Michigan allows individuals to deduct from adjusted gross income political contributions in amounts up to \$50, or \$100 in the case of a joint return.

Florida, Illinois, Massachusetts, New York, and Texas do not allow a credit or a deduction similar to what is proposed by this bill.

FISCAL IMPACT

First year implementation costs are estimated to be \$534,000, which includes one-time programming costs of approximately \$383,000. Ongoing costs are estimated to be \$88,000 to process this credit. It is estimated that this bill would require the department to incur seven additional personnel years (PYs) in 2001-02, decreasing to approximately two PYs in the ongoing years. The department would have to begin working on programming immediately to process this credit for the 2001 taxable year.

The estimated costs are associated with the printing and processing of the additional page to each return, changes to the computer systems, increased taxpayer telephone calls and correspondence and electronic and paper storage.

Amendment 1 is provided to suggest language for an appropriation to fund these departmental costs.

ECONOMIC IMPACT

Tax Revenue Estimate

This bill would result in revenue losses as follows:

Estimated Revenue Impact of AB 1353 As Introduced February 23, 2001 \$ Millions		
2001-02	2002-03	2003-04
-\$33	-\$31	-\$32

Note: For purposes of this estimate, it is assumed that documentation substantiating the amount of qualifying contributions would be required to be filed with the appropriate income tax form.

This estimate does not account for changes in employment, personal income, or gross state product that could result from this measure.

Revenue Estimate Discussion

For purposes of this estimate, tax data from the former nonrefundable political contribution credit was used. It is projected that 202,500 individuals will claim an average credit of \$150 in 2001. This number was calculated by taking the most claimants in any given year under the former credit and increasing that number based upon the normal growth rate and the incentive effect from this proposed refundable credit.

ARGUMENTS/POLICY CONCERNS

Historically, refundable credits, such as the former state renter's credit and the federal Earned Income Credit, have had significant problems with invalid and fraudulent returns. These problems are aggravated if a refund is made that is later determined to be fraudulent. In such cases the refund commonly cannot be recovered.

This bill does not specify a repeal date. Credits typically are enacted with a repeal date to allow the Legislature to review the effectiveness of the credit.

Credits generally are provided as a percentage of actual amounts. This bill would allow a 100% credit, up to certain limits, which is unprecedented.

This bill does not contain any recapture provision in the event that the political contributions are returned to the donor (taxpayer).

LEGISLATIVE STAFF CONTACT

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 1353
As Introduced February 23, 2001

AMENDMENT 1

On page 2, line 15 following "SEC. 2" insert:

(a) There is hereby appropriated from the General Fund for expenditure in the 2001-2002 fiscal year the sum of five hundred thirty four thousand dollars (\$534,000) for allocation to the Franchise Tax Board in augmentation of Item 1730-001-0001 of the Budget Act of 2001.

(b) Any funds that are allocated pursuant to subdivision (a) shall be expended by the Franchise Tax Board solely for the purposes of administration of the Political Contributions Refundable Credit under Section 17053.15 of the Revenue and Taxation Code.

SEC. 3.